IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5915 of 1995

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

STATE OF GUJARAT - Petitioner(s)

Versus

DINESHKUMAR K.THAKORE, - Respondent(s)

==========

Appearance :

MR SP HASURKAR for Petitioner No(s).: 1.

MR PH PATHAK for Respondent No(s).: 1.

==========

CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 18/07/2005

ORAL JUDGMENT

.

1. This petition is directed against the judgment and order dated 10th November, 1994, passed by the Labour Court, Kalol in Reference [L.C.A.] No. 4 of 1989 whereby the Labour Court has directed the petitioner to reinstate the respondent on his original post with

continuity in service along with back wages.

2. The short facts of the case are that the respondent was working as Rojamdar with the petitioner. It is the case of the respondent that the petitioner without following the procedure under the Industrial Disputes Act, 1947 has relieved him from the service w.e.f. 11th May, 1988. Feeling aggrieved by the said action, the respondent raised an industrial dispute which was ultimately referred to the Labour Court, Kalol for adjudication. The Labour Court after appreciating the materials produced before it, passed the impugned award. Hence, this petition.

3. I have heard the learned counsel for the parties and have perused the materials placed on record. As stated by Mr. Pathak that in view of the order of this Court, the respondent has been reinstated in service w.e.f. 4th November, 1996. Now since the respondent has been reinstated in service, the only question which is now required to be considered is with regard to grant of back wages.

4. However, the Labour Court while granting back

wages has not given any cogent reasons. Moreover in view of the principle laid down by the Apex Court “No Work No Pay”, grant of back wages was not justified. Thus, the impugned order of the Labour Court qua the back wages is required to be quashed and set aside.

5. In the result, the petition is partly allowed. The award dated 10th November, 1994, passed by the Labour Court, Kalol in Reference [L.C.A.] No. 4 of 1989 qua the direction with regard to the back wages is quashed and set aside. The rest of the award is confirmed. The petitioner shall grant all the benefits from the date of the publication of the award till the payment is realized and difference of salary within a period of three months from the date of receipt of writ of this Court. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/